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10/662,971	09/15/2003	Thomas F. Papallo	138562	1096
<div>7590      02/14/2011</div> <div>Paul D. Greeley, Esq. Ohlandt, Greeley, Ruggiero &amp; Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682</div>				
			EXAMINER	
			WILLOUGHBY, TERRENCE RONIQUE	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* THOMAS F. PAPALLO, GREGORY P. LAVOIE,  
and JOHN S. VANDEVANTER

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Appeal 2009-008089  
Application 10/662,971  
Technology Center 2800

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Before JOSEPH F. RUGGIERO, MAHSHID D. SAADAT, and ROBERT  
E. NAPPI, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 1, 2, 4 through 16, 18 through 21, 32 through 38, 40 through 44, 46 through 53, 55 through 57, and 59.

We reverse.

## INVENTION

The invention is directed to a method to protect a circuit having power switching devices. See pages 2 through 3 of Appellants' Specification.

Claim 1 is representative of the invention and is reproduced below:

1. A method of protecting a circuit having power switching devices, the method comprising:
  - defining characteristics of a zone of protection of the circuit;
  - defining a protection matrix based at least in part upon said characteristics;
  - performing a zone protective function on said zone of protection using said protection matrix, wherein said protection matrix comprises a matrix of protection coefficients used by said zone protective function, wherein the step of performing said zone protective function is based at least in part upon electrical parameters of said zone of protection, said electrical parameters being communicated over a data network to a microprocessor, said microprocessor performing said zone protective function; and
  - controlling said microprocessor to perform instantaneous overcurrent protection of the switching devices based at least in part on said electrical parameters.

## REFERENCES

Matsko	US 5,875,088	Feb. 23, 1999
Engel	US 6,167,329	Dec. 26, 2000
Qin	US 6,411,865 B1	Jun. 25, 2002

## REJECTIONS AT ISSUE

The Examiner has rejected claims 1, 2, 4 through 11, 32 through 38, and 40 through 43 under 35 U.S.C. § 103(a) as being unpatentable over Qin in view of Engel.<sup>2</sup> The Examiner's rejection is on pages 3 through 8 of the Answer.<sup>3</sup>

The Examiner has rejected claims 12 through 16, 18 through 21, 44, 46 through 53, 55 through 57, and 59 under 35 U.S.C. § 103(a) as being unpatentable over Qin in view of and Matsko and Engel. The Examiner's rejection is on pages 8 through 16 of the Answer.

## ISSUE

*Claims 1, 2, 4 through 11, 32 through 38, and 40 through 43*

Appellants argue on pages 6 through 8 of the Brief, and 4 through 5 of the Reply Brief<sup>4</sup>, the Examiner's rejection of claims 1, 2, 4 through 11, 32 through 38, and 40 through 43 is in error. Appellants' arguments present us with the issue whether the Examiner erred in finding the combination of Qin and Engel teaches a microprocessor to perform zone protection and instantaneous overcurrent protection of the devices.

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<sup>2</sup> We note the statement of the rejection on page 3 of the Answer does not identify claims 33, 34, and 37 as included in the rejection. However, on pages 5 and 6 of the Answer these claims are identified as included in the rejection.

<sup>3</sup> Throughout this decision we refer to the Examiner's Answer dated September 15, 2008.

<sup>4</sup> Throughout this decision we refer to the Brief dated August 7, 2008, Reply Brief November 14, 2008.

*Claims 12 through 16, 18 through 21, 44, 46 through 53, 55 through 57, and 59*

Appellants' arguments present us with same issue as discussed above.

#### ANALYSIS

*Claims 1, 2, 4 through 11, 32 through 38, and 40 through 43*

Appellants' arguments have persuaded us of error in the Examiner's rejection. On pages 16 and 17 of the Answer, the Examiner responds to the Appellants' arguments by finding Qin teaches a circuit which controls switching devices and zone protection while Engel teaches a microprocessor which provides instantaneous overcurrent protection. Based upon these findings, the Examiner concludes it would have been obvious to have a microprocessor perform both overcurrent and zone protection for plural switching devices. Answer 18. We disagree with the Examiner's conclusion.

Independent claim 1 recites a microprocessor to perform a zone protection function and instantaneous overcurrent protection for the switching devices. Independent claim 32 recites a processing unit performing all primary power distribution functions and performing the zone protection functions.

We concur with the Examiner's finding that Qin teaches one device controlling multiple circuit breakers in a centralized manner, however, Qin makes no mention of instantaneous overcurrent. We also find Engel teaches two microprocessors are used to control a circuit breaker. The first processor performs instantaneous overcurrent protection; the other processor performs voltage protection, and functions associated with monitoring such as communication with a central control. Col. 4, ll. 19-22, 49-54, and 65-67.

Thus, while Engel teaches that a microprocessor performs the instantaneous overcurrent protection, it does not suggest the same microprocessor performs functions associated with other forms of protection or controls other circuit breakers. As such, we do not find the Examiner has presented sufficient evidence to show the combination of the references teaches a microprocessor to perform zone protection and instantaneous overcurrent protection (or all primary power distribution functions for more than one device). Accordingly, we will not sustain the Examiner's rejection of claims 1, 2, 4 through 11, 32 through 38, and 40 through 43.

*Claims 12 through 16, 18 through 21, 44, 46 through 53, 55 through 57, and 59*

Appellants' arguments have persuaded us of error in the Examiner's rejection. On pages 18 and 19 of the Answer, the Examiner responds to the Appellants' arguments in the same manner discussed above. We disagree with the Examiners rationale.

Independent claims 12 and 14 recite limitations similar to those discussed with respect to claim 1. Independent 46 recites limitations similar to those discussed above with respect to claim 32. Thus, we will not sustain the Examiner's rejection of 12 through 16, 18 through 21, 44, 46 through 53, 55 through 57, and 59 for the reasons discussed above with respect to claims 1 and 32.

## CONCLUSION

Appellants have persuaded us of error in the Examiner's decision to reject claims 1, 2, 4 through 16, 18 through 21, 32 through 38, 40 through 44, 46 through 53, 55 through 57, and 59.

ORDER

The decision of the Examiner to reject claims 1, 2, 4 through 16, 18 through 21, 32 through 38, 40 through 44, 46 through 53, 55 through 57, and 59 is reversed.

REVERSED

ELD

PAUL D. GREELEY, ESQ.  
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.  
10TH FLOOR  
ONE LANDMARK SQUARE  
STAMFORD, CT 06901-2682